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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,009	03/26/2004	Silvio Nuncz	L0750	7269

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EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
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3751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/27/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/810,009

Applicant(s)

NUNEZ, SILVIO

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 03/26/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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1. The status of the parent application(s) should be updated.
2. The drawings are objected to because reference numerals "31" (pg. 7 ln. 155) and "34" pg. 8 ln. 165) are missing, reference numeral "22" in Fig. 3 apparently should be --22'-- (or equivalent) to designate different structure from Fig. 2, and reference numeral "22" in Fig. 4 apparently should be --22''-- (or equivalent) to designate different structure from Figs. 2 and 3.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter set forth in claims 4 and 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the

several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The disclosure is objected to because of the following informalities: Page 5, line 113 and page 8, line 165, reference numeral "34" denotes different structure; and reference numerals "44" and "46" lack a detailed description.

Appropriate correction is required.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the hybrid embodiment comprising a "transparent dome", a "cone-shaped indicator" and a "flexible conduit" set forth in claim 1, "means to seal" as generally set forth in claims 2 and 9, and "means to seal" pertaining to the Fig. 3 embodiment ("flexible conduit") set forth in claim 2, could not be found in the specification.

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Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

5. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is unclear as to whether the "influent drain line" and "effluent exit line" are intended to be part of the claimed combination since structure of the "drain trap" is defined as being connected thereto (ln. 2), but no positive structural antecedent basis therefor has been defined. Claim 8 is similarly indefinite. Claims 2-7 and 9-13 depend from claims 1 and 8.

6. The claim hierarchy does not appear to be in accordance with MPEP 608.01(m). Claims remaining at allowance may require renumbering.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Bower.

The Bower reference discloses a drain trap comprising: a lower bowl D; a sealed cover E; a vertical conduit A; and a horizontal (at least a portion) conduit B, as claimed.

Considering claim 8 as being drawn to the trap per se, the Bower trap is capable of being used with an "influent drain line" and "effluent exit line". Furthermore, the vertical conduit is integral with the sealed cover (as illustrated). The term "formed monolithically" appears to be a product-by-process limitation. This type of limitation has long been held as not operating to distinguish a prior art structure which otherwise meets all the claimed structure. In any event, the horizontal conduit (exit line) appears to meet the "formed monolithically" limitation.

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9. Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bower and Uriarte.

Considering claim 8 as drawn to the combination of a trap, influent drain line and effluent exit line, the Uriarte reference discloses an analogous trap which further is fit between an influent drain line 14 and effluent exit line 15. Therefore, in consideration of Uriarte, it would have been obvious to one of ordinary skill in the trap art to associate an influent drain line and effluent exit line with the Bower trap in order to utilize the Bower trap in a common manner. Moreover, Uriarte teaches provision of a horizontal conduit 5 oriented to receive the horizontal effluent exit line 15.

Re claim 8, although the vertical conduit of the Bower trap may not be "formed monolithically", as claimed, attention is again directed to Uriarte which discloses a vertical conduit 4 that has been "formed monolithically" with a sealed cover 2. Therefore, in consideration of Uriarte, it would have been obvious to one of ordinary skill in the trap art to associate a monolithically formed vertical conduit with the Bower trap in order to reduce the number of separate pieces.

Re claim 9, Uriarte further teaches provision of means to seal 12,13. Therefore, in further consideration of Uriarte, it would have been obvious to one of ordinary skill in the trap art

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to associate means to seal with the Bower trap in order to inhibit leakage. Furthermore, the means to seal taught by Uriarte appears to be both "integrated" and "non-integrated" as claims 11 and 12 can be best understood.

Re claim 13, Uriarte still further teaches use of synthetic material (col. 2 ln. 16). Therefore, in still further consideration of Uriarte, it would have been obvious to one of ordinary skill in the trap art to utilize synthetic material with the Bower trap in order to enable two piece construction. Furthermore, "plastic" is one well known and accepted synthetic material which would have been desirable because it can be easily molded.

10. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bower and Uriarte as applied to claims 8-13 above, and further in view of Budde and Olive.

The Bower lower bowl is transparent (pg. 1 par. 2).

Although the lower bowl of the Bower trap does not include a cone-shaped indicator, as claimed, attention is directed to the Budde reference which discloses an analogous trap which further includes a lower bowl W having a cone-shaped indicator K. Therefore, in consideration of Budde, it would have been obvious to one of ordinary skill in the trap art to associate a

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cone-shaped indicator with the Bower lower bowl in order to inhibit clogging.

Although the horizontal conduit of the Bower trap does not include a flexible conduit segment, as claimed, attention is directed to the Olive reference which discloses an analogous trap which further includes a horizontal conduit 32 having a flexible conduit segment 36. Therefore, in consideration of Olive, it would have been obvious to one of ordinary skill in the trap art to associate a flexible conduit segment with the Bower horizontal conduit in order to facilitate installation.

11. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

12. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.



Robert M. Fetsuga
Primary Examiner
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